

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOMINIQUE DANIELS,

Plaintiff,

-against-

JERRY L. ELLIOT and W.W. TRANSPORT, INC.,

Defendants-Petitioners.
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Civil Action No.:

NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Defendants-Petitioners, JERRY L. ELLIOT and W.W. TRANSPORT, INC., file this notice to remove the foregoing case to the United States District Court for the Southern District of New York, Manhattan division, and respectfully show this Court:

1. A civil action was commenced in the Supreme Court of Bronx County, State of New York, in which the above-named individual, DOMINIQUE DANIELS is the plaintiff and the petitioners are defendants JERRY L. ELLIOT and W.W. TRANSPORT, INC. The action is entitled DOMINIQUE DANIELS v. JERRY L. ELLIOT and W.W. TRANSPORT, INC. and bears Index number 24274/19.

2. This is a civil action seeking damages arising out of a motor vehicle accident allegedly caused by the defendants' negligence. The plaintiff alleges personal injuries. The addendum demands an amount which exceeds the jurisdictional limits of all lower Courts. Accordingly, the amount in controversy in this suit is in excess, exclusive of interest and costs, of \$75,000.

3. This action involves a controversy between citizens of the State of New York, a corporation of the State of Iowa, and a citizen of the State of Pennsylvania, in that: (a) the plaintiff DOMINIQUE DANIELS is now, and was at the time said action was commenced, a resident of the State of New York, (b) petitioner W.W. TRANSPORT, INC. is at the time of the accident and remains a corporation of the State of Iowa with its principal place of business in the State of Iowa, and (c) petitioner JERRY L. ELLIOT was at the time of the accident and remains resident and domiciliary of the State of Pennsylvania.

4. The above action was commenced against defendants-petitioners on or after May 21, 2018.

5. No proceedings have occurred in the state court action, and the defendants have not yet appeared in that action.

6. Said action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is complete diversity of citizenship between the plaintiff and the defendants.

7. Defendants JERRY L. ELLIOT and W.W. TRANSPORT, INC. are the petitioners for the removal of this case to this Court.

8. This motion is filed within thirty (30) days after receipt by petitioners JERRY L. ELLIOT and W.W. TRANSPORT, INC. of the summons and complaint commanding them to appear and to file a written answer to the plaintiff's complaint.

9. Written filing of this motion will be given to the plaintiff promptly after the filing of this motion, as is required by law.

10. A true and correct copy of this motion will be filed with the Clerk of the Supreme Court of Bronx County, State of New York promptly after the filing of this motion, as is required by law.

11. Attached to this motion, and by reference made a part hereof, are true and correct copies of all process, pleadings and orders filed in the aforesaid action.

12. By filing this Notice of Removal, petitioners do not waive any defense which may be available to them, specifically including, but not limited to, their right to contest in personam jurisdiction over the petitioners, improper service of process upon the petitioners, and the absence of venue in this Court or in the court from which the action has been removed.


WHEREFORE, petitioners pray that this action proceed in this Court as an action properly removed thereto.

Dated: New York, New York
May 24, 2019

Yours etc.,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:


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